

**From:** Yilma, Haimanot  
**To:** [Distler, Kenneth](#)  
**Subject:** Powertech's comments on the draft  
**Date:** Tuesday, February 12, 2013 2:43:30 PM

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Ken,

Thank you for coordinating the meeting with everyone today. Per our discussion just now, here is the comment we received from Powertech on the language we had in our draft regarding Subpart W. Let me know if you have any follow-up questions.

**Powertech's comment:**

p. 2-24, lines 1-11

While NRC staff have stayed out of the dispute between EPA and industry regarding the applicability of 40 CFR Part 61, Subpart W (unlike with Subparts I and T), the statements here appear to indicate that NRC staff conclude that an ISR operator will require a CAA permit under these regulations in order to operate. This statement should be deleted from the DSEIS, because it is inaccurate legally. **The National Mining Association (NMA) already has provided EPA with a detailed legal memorandum showing that the current EPA interpretation of these regulations is incorrect legally.** In any event, if NRC chooses not to engage with EPA regarding its unnecessary, duplicative requirements, at least the DSEIS should refrain from using statements that lend undue credence to EPA's current position that such regulations apply to ponds at ISR facilities.

Thanks

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